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**IN THE UNITED STATES BANKRUPTCY COURT  
District of Nevada**

**In Re:**

Rosa Elena Sanchez

**Debtor(s)**

)  
) Case No: 12-10532-MKN  
) Trustee: RICK YARNALL  
)  
) Chapter: 13  
)  
) DEBTOR'S VERIFIED OUT OF TIME  
) MOTION FOR REFERRAL TO  
) MORTGAGE MODIFICATION  
) MEDIATION

**ANY INTERESTED PARTY WHO FAILS TO FILE AND SERVE  
A WRITTEN RESPONSE TO THIS MOTION WITHIN 14 DAYS  
AFTER SERVICE OF THIS MOTION SHALL, PURSUANT TO  
ADMINISTRATIVE ORDER 2014-08, BE DEEMED TO HAVE  
CONSENTED TO THE ENTRY OF AN ORDER IN THE FORM  
ATTACHED TO THIS MOTION.**

The Debtor files this Verified Out of Time Motion for Referral to Mortgage Modification Mediation ("Out of Time Motion") and requests the Court enter an Order Granting the Out of Time Motion referring Debtor and Bank of America ("Lender") to Mortgage Modification Mediation ("MMM") and states as follows:

1. Debtor is an individual who has filed for bankruptcy relief under, or converted to, chapter 13 on January 18, 2012. In support of Debtor's request to participate in MMM "Out of Time," Debtor states the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

2. Debtor requests MMM for real property ("Property") located at the following street address: 128 Shadow Lane, Las Vegas, Nevada 89106; account number for this property is xxxxxxxxx7881 (last four digits).

a. The Property is (check one box):

☒ The Debtor's primary residence.

☐ Not the Debtor's primary residence.

b. Borrowers obligated on the promissory note and mortgage on the Property are (check one box):

☒ Debtor only.

☐ Debtor and non-filing co-obligor/co-borrower/third party.

Contact information for co-obligor/co-borrower/third party:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

E-mail: \_\_\_\_\_

☐ Other:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

E-mail: \_\_\_\_\_

c. If applicable, Debtor has filed with this motion the MMM Local Form "Third Party's Consent to Attend and Participate in Mortgage Modification Mediation" signed by each co-obligor/co-borrower/third party listed above.

1           3.     Debtor intends to (check all boxes that apply):  
2

- 3                   ☒     Modify the mortgage on the Debtor's primary residence.  
4                   ☐     Modify the mortgage on Property that is not the Debtor's primary  
5                                       residence.  
6                   ☐     Surrender the Property to the Lender.  
7

8           4.     Prior to filing this motion, Debtor has completed Debtor's information using the  
9                   court-approved on-line program that facilitates the preparation of the Debtor's  
10                   loan modification package ("Document Preparation Software") and has paid the  
11                   Document Preparation Software fee to the approved vendor. Debtor's initial loan  
12                   modification forms have been generated and are ready for signature and  
13                   submission. Debtor has also collected all of the required supporting  
14                   documentation as required by the Document Preparation Software (such  
15                   documentation and forms referred collectively to as "Debtor's Prepared  
16                   Package") and is prepared to submit the supporting documentation along with the  
17                   modification forms.  
18

19          5.     Prior to filing this motion, Debtor has determined that:  
20

- 21                   ☒     Lender is registered with the approved Mortgage Modification  
22                                       Mediation Portal ("MMM Portal").  
23                   ☐     Lender is not registered. Debtor requests the Court require Lender  
24                                       to register with the MMM Portal within seven days after entry of  
25                                       the Order. The Debtor will upload to the MMM Portal, Debtor's  
26                                       Prepared Package together with any additional forms or documents  
27  
28

1 which Lender may post on the MMM Portal, within seven days  
2 after the Lender has registered.

3 6. Debtor requests Lender consider (check as many boxes as applicable):  
4

5 ☒ a HAMP or government sponsored loan modification.

6 ☒ a conventional loan modification.

7 ☐ a deed in lieu of foreclosure.

8 ☐ surrender options.

9 ☐ other: \_\_\_\_\_.  
10

11 7. IF DEBTOR IS REQUESTING NON-RETENTION (SURRENDER) OPTIONS:

12 a. Debtor will submit all additional documents required for surrender as  
13 provided for on the MMM Portal.

14 b. Debtor represents that the property ☐ has or ☒ has not been listed for sale.

15 8. If the Debtor is represented by an attorney, Debtor remitted the required  
16 Mediator's fee to Debtor's attorney pursuant to the MMM Procedures. Debtor  
17 understands and acknowledges that after the mediator is designated, the  
18 mediator's fee is not refundable for any reason at any time;  
19

20 9. If the Debtor is not represented by an attorney, the Debtor obtained a money order  
21 or a cashier's check to pay the required mediator's fee pursuant to the MMM  
22 Procedures; a copy of that money order is attached. Debtor understands and  
23 acknowledges that after the mediator is designated, the mediator's fee is not  
24 refundable for any reason at any time.  
25

26 10. Within seven days after filing the MMM Local Form "Debtor's Notice of  
27 Selection of Mortgage Modification Mediator (or "Notice of Clerk's Designation  
28 of Mortgage Modification Mediator") or the Lender's registration on the MMM

Portal, whichever occurs later, Debtor shall upload and submit through the MMM Portal, Debtor's Prepared Package, together with any additional forms or documents which Lender may post on the MMM Portal, and pay a non-refundable MMM Portal submission fee. In addition, the Debtor's will upload the Order to the MMM Portal as part of the submission of Debtor's documentation;

11. Debtor will forward the mediator's fee directly to the mediator within seven days after designation of the mediator;

12. If Debtor is represented by counsel, Debtor consents to Lender communicating directly with Debtor's attorney for any and all aspects of the mortgage modification mediation program;

13. If Debtor is not represented by counsel, Debtor may be contacted at the following phone number(s) and e-mail address: \_\_\_\_\_  
\_\_\_\_\_.

WHEREFORE, Debtor requests that the Out of Time Motion be granted and for such other and further relief as this Court deems proper.

**DEBTOR'S VERIFICATION**

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury the foregoing is true and correct on this 31 day of March, 2015.

/s/ Rosa Elena Sanchez  
Debtor

\_\_\_\_\_  
Debtor

DATED this 31 day of March, 2015

Submitted by:

/s/ ANTHONY J. DELUCA  
ANTHONY J. DELUCA, ESQ.  
7580 West Sahara Avenue  
Las Vegas, Nevada 89117  
Attorney for Debtor(s)

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11 **IN THE UNITED STATES BANKRUPTCY COURT**  
12 **District of Nevada**

13 **In Re:**

14 Rosa Elena Sanchez

15 **Debtor(s)**

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) Case No: 12-10532-MKN  
) Trustee: RICK YARNALL  
)  
) Chapter: 13  
)  
) ORDER ON DEBTOR'S VERIFIED OUT OF  
) TIME MOTION FOR REFERRAL TO  
) MORTGAGE MODIFICATION  
) MEDIATION

18 The Debtor filed a Verified Out of Time Motion for Referral to Mortgage Modification  
19 Mediation ("Out of Time Motion") on March 31, 2015, and served it on the Lender in  
20 accordance with this Court's Mortgage Modification Mediation Program Procedures (select one):  
21

- 22 ☐ The Debtor has filed a "Certificate of No Response and Request for Entry of  
23 Order";
- 24 ☐ The Lender has filed a Lender's Consent to participate in MMM; or
- 25 ☐ The matter was opposed and the Court conducted a hearing on \_\_\_\_\_.  
26  
27  
28

**IT IS ORDERED AS FOLLOWS:**

1. The Motion is GRANTED;
2. The Debtor and Lender are required to participate in Mortgage Modification Mediation (“MMM”) in good faith and may be subject to possible sanctions by the Court for violation of this requirement, including vacating this order. MMM shall be concluded not later than 150 days from the date of the Order, unless extended by written consent on the approved Mortgage Modification Mediation Portal (“MMM Portal”), by stipulation of the parties or by court order;
3. All communications and information exchanged during MMM are privileged and confidential and shall be inadmissible in any subsequent proceeding as provided by Rule 408 of the Federal Rules Evidence, except in circumstances of a motion for failure to participate in good faith under the MMM program and procedures and/or subsequent mediation negotiation under this chapter and/or the State of Nevada Foreclosure Mediation Program;
4. The chapter 13 trustee shall have access to the DMM Portal but shall not be able to read/review any documentation, correspondence or any other confidential information;
5. All written communication between the parties regarding the mediation must be sent through the approved MMM Portal only, unless otherwise ordered by the Court. Any litigated matters incidental to the mediation shall be considered as separate matters and not subject to the portal communication requirement;
6. The Lender shall register with the MMM Portal, unless already registered, within seven days after entry of this Order, and designate its single point of contact and outside legal counsel who must register within seven days after designation. If



1 the Lender fails to register, the Debtor may file a motion with the Court seeking  
2 sanctions against the Lender for Lender's failure to register;

3 7. Lender's counsel or representative shall have the authority (within the investor's  
4 guidelines) to settle and will attend and continuously participate in all MMM  
5 conferences in this case;

6  
7 8. Debtor shall, within seven days after the filing of Debtor's Notice of Selection of  
8 Mortgage Modification Mediator (or Notice of Clerk's Designation of Mortgage  
9 Modification Mediator), or after confirming that the Lender is registered on the  
10 MMM Portal, whichever occurs later, remit to the MMM Portal the required non-  
11 refundable MMM Portal submission fee, and upload to the MMM Portal the  
12 following (collectively, the "Completed Package"):

13 (a) Debtor's loan modification package (prepared using the Document  
14 Preparation Software);

15 (b) a copy of this Order; and

16 (c) any additional lender-specific information identified by Lender on  
17 the MMM Portal.  
18

19 9. The Lender shall, within seven days after Debtor's delivery of the "Completed  
20 Package," acknowledge receipt of Debtor's information and advise Debtor of any  
21 additional or missing information required for Lender to proceed with its review;  
22

23 10. In the event the Lender requires additional or missing information to consider the  
24 Debtor's requested mortgage modification options as specified in the Ex Parte  
25 Motion, the Lender shall so notify Debtor through the MMM Portal within seven  
26 days of Debtor's submission ("Notice"). The Debtor shall provide all additional  
documents through the MMM Portal within seven days of the Notice;

27 11. The Lender shall timely underwrite the loan modification request;  
28

12. If the Lender transfers the loan, the Lender must provide a copy of the Order to the new holder of the loan ("Successor Lender"), and the Successor Lender will be obligated to comply with all terms of this Order;

**13. PROCESS FOR SELECTION OF MEDIATOR:**

- (a) The parties shall have 14 days from the date of this Order to select a mediator. If the parties agree on the selection of a mediator, the Debtor shall file the MMM Local Form "Debtor's Notice of Selection of Mortgage Modification Mediator" (Check Box 1 and insert mediator name and contact information), serve a copy of the notice on all required parties, and file a Certificate of Service pursuant to Local Rule 2002;
- (b) If the Lender fails to communicate with the Debtor within the 14 day period established for the mediator selection process, the Debtor shall, within seven days, independently select a mediator and file the "Debtor's Notice of Selection of Mortgage Modification Mediator" (Check Box 2 and insert mediator name and contact information), serve a copy of the notice on all required parties, and file a Certificate of Service pursuant to Local Rule 2002. In this instance, it shall be deemed that the Lender has waived the right to challenge Debtor's selection of a Mediator;
- (c) If the parties attempt to reach agreement on the selection of a Mediator, but fail to do so, the Debtor shall file the "Debtor's Notice of Selection of Mortgage Modification Mediator" (Check Box 3 indicating an impasse), serve a copy of the notice on all required parties, and file a Certificate of Service pursuant to Local Rule 2002. The clerk shall then randomly select a mediator from the clerk's Mediation Register pursuant to the

1 MMM Program Procedures, without the necessity of a hearing. The clerk  
2 shall serve notice of the mediator selection on the required parties using  
3 the MMM Local Form "Notice of Clerk's Designation of Mortgage  
4 Modification Mediator." Any challenge to the clerk's designation of  
5 mediator shall be resolved in accordance with the MMM Program  
6 Procedures.  
7

8 14. Debtor shall assign the mediator as the mediator in this case on the MMM Portal  
9 within seven days after designation;

10 15. The mediator shall be:

- 11 (a) governed by the subject to the Model Standards of Conduct for Mediators  
12 as revised and adopted in 2005 by the American Arbitration Association,  
13 American Bar Association, and Association of Conflict Resolution.  
14 Mediators shall have judicial immunity in the same manner and to the  
15 same extent as a judge;  
16  
17 (b) subject to paragraph 16 below, be compensated in the amount of \$600.00  
18 for preparation for MMM, execution of required documents, facilitation of  
19 document and information exchange between the parties, and participation  
20 in no more than two one-hour MMM conferences;  
21  
22 (c) compensated at the rate set by the U.S. Bankruptcy Court for the District  
23 of Nevada as adopted by this court by Administrative Order 2014-08, or at  
24 such rate as may be agreed to in writing by the parties and the mediator  
25 selected by the parties for any MMM conferences that extend beyond the  
26 initial two one-hour conferences.  
27  
28

- 1       16.     The mediator's fee shall be paid equally by the parties as follows:
  - 2           (a)     The Debtor shall pay the required non-refundable fee pursuant to the  
3                   MMM Procedures directly to the mediator within seven days designation  
4                   of the mediator;
  - 5           (b)     The Lender shall pay the required non-refundable fee pursuant to the  
6                   MMM Procedures directly to the mediator within seven days after  
7                   designation of the mediator; and
  - 8           (c)     The mediator's fee for MMM conferences that extend beyond two, one-  
9                   hour conferences, shall be paid equally by the parties and is due and  
10                  payable at the beginning of each successive MMM conference in  
11                  accordance with the program procedures.
- 12       17.     The mediator shall log in to the MMM Portal within seven days after designation  
13                  and use the MMM Portal to facilitate any additional exchange of information or  
14                  documentation between Debtor and Lender in an effort to perfect the documents  
15                  needed for Lender to complete its analysis of Debtor's mortgage modification  
16                  mitigation options;
- 17       18.     If the mediator either fails to timely register or log in to the MMM Portal to begin  
18                  to facilitate the MMM process, any party to the mediation may file a motion  
19                  requesting that the mediator be removed from this case and, if applicable, be  
20                  removed from the clerk's Mediation Register;
- 21       19.     **MEDIATION CONFERENCE:**
  - 22           (a)     The mediator shall schedule the initial MMM conference no later than  
23                   seven days after determining that the Lender has received and reviewed all  
24                   requested information. In the event the mediator cannot determine that the  
25                   requested information. In the event the mediator cannot determine that the  
26                   requested information. In the event the mediator cannot determine that the  
27                   requested information. In the event the mediator cannot determine that the  
28                   requested information. In the event the mediator cannot determine that the

1 Lender has received all the requested information, the mediator shall  
2 schedule the initial MMM conference within 90 days of this Order. The  
3 initial MMM conference shall not exceed one hour. The mediator shall  
4 report the scheduling of all MMM conferences on the MMM Portal;

5 (b) If the Debtor is represented by an attorney, the Lender and Lender's  
6 representative may participate in the MMM conference by telephone;

7 (c) If the Debtor is represented by an attorney, the Debtor and any co-  
8 obligors/co-borrowers or other third party may participate in the MMM  
9 conference by telephone provided they are physically present with  
10 Debtor's attorney and present identification to Debtor's attorney during all  
11 MMM conferences;  
12

13 (d) If the Debtor is not represented by an attorney, the debtor and any co-  
14 borrower shall be physically present with the mediator at the mediator's  
15 selected location and present identification to the mediator for all MMM  
16 conferences;  
17

18 (e) Debtor shall provide a foreign language interpreter, if necessary, at the  
19 Debtor's own expense; and  
20

21 (f) All parties attending the MMM conference must be ready, willing and able  
22 to sign a binding settlement agreement at the MMM conference and have  
23 the ability to scan, send and receive documents by facsimile, e-mail or  
24 other electronic means at the time of the MMM conference.

25 20. In the event the parties are unable to reach an agreement and require an additional  
26 MMM conference, the mediator shall schedule a final MMM conference no later  
27 than 30 days thereafter. The final MMM conference shall not exceed one hour;  
28

21. In the event the parties reach a final resolution or, if no agreement has been reached, the mediator shall report the results of the MMM on the MMM Portal not later than seven days after the conclusion of the final MMM conference. The mediator shall also complete and file with the Court, via CM/ECF, the MMM Local Form “Final Report of Mortgage Modification Mediator,” within two business days following entry of the final report data on the MMM Portal;
22. If an agreement has been reached, Debtor shall file the MMM Local Form “Ex Parte Motion to Approve Mortgage Modification Mediation Agreement with Lender,” no later than 14 days following the filing of the Final Report and upload the MMM Local Form “Order Granting Motion to Approve Mortgage Modification Mediation Agreement with Lender” to the Court’s CM/ECF. The parties shall also seek any necessary Court approval and formalize any required legal documents in a timely fashion thereafter;
23. The automatic stay is modified to the extent necessary to facilitate MMM pursuant to this Order;
24. Any of the deadlines imposed by this Order may be extended by order of the Court;
25. If any parties or counsel fail to comply with the terms of this Order, the Court will consider a motion to vacate the Order and may also impose sanctions; and
26. The Debtor shall serve a copy of this Order on all parties to the mediation, immediately upon receipt. Service shall be by regular U.S. Mail, electronic service, or e-mail, if the party’s e-mail address is known.

**IT IS SO ORDERED.**

DATED this 31 day of March, 2015

Submitted by:

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7580 West Sahara Avenue  
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